

ROYAL COMMISSION
ON
ATLANTIC ACCEPTANCE CORPORATION LIMITED
EXHIBIT No.

PER..... REGISTRAR..... DATE.....

EVIDENCE GATHERED FOR THE
REPORT
of
THE ROYAL COMMISSION
APPOINTED TO INQUIRE INTO
THE FAILURE
of
ATLANTIC ACCEPTANCE CORPORATION
LIMITED

CONTINUATION OF EXAMINATION FOR DISCOVERY OF JACK TRAMIEL

Date of interview: November 30, 1965

Exhibit Number: 4164

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ROYAL COMMISSION
ON
ATLANTIC ACCEPTANCE CORPORATION LIMITED
EXHIBIT No. 4164

PER Mc REGISTRAR DATE 2.3.67

IN THE MATTER OF THE BANKRUPTCY OF ASSOCIATED
CANADIAN HOLDINGS LIMITED, of the City of
Toronto, County of York, Province of Ontario.

CONTINUATION OF EXAMINATION FOR DISCOVERY
OF J. TRAMIEL, 30th DAY OF NOVEMBER, 1965.

INDEX TO CONTINUATION OF EXAMINATION OF JACK TRAMIEL

- Page 4 - C.B.M. received \$750,000.00 from A.C.H.; on July 10th, 1963, C.B.M. issued a cheque, number A-2174 to Five Wheels Limited for 100,000 common shares of Five Wheels Limited in the amount of \$750,000.00.
- Page 5 - On July 31, 1963, C.B.M.'s Board of Directors did not ratify the transaction and on mutual agreement between A.C.H. and C.B.M., 100,000 shares of Five Wheels Limited were transferred from C.B.M. to A.C.H. as a full settlement of the \$750,000.00. Tramiel does not know if A.C.H. actually received the 100,000 shares of Five Wheels Limited.
- Page 6 - On that deal of mutual recession he believed that Morgan acted for both C.B.M. and A.C.H. and Tramiel agreed as well.
- Page 7 - As a director of C.B.M. Tramiel was neither not in favour or not against the purchase of shares of Five Wheels Limited by C.B.M.
- Page 8 - Tramiel could not remember how he voted at the Board Meeting at that particular transaction.
- Page 10- Tramiel does not know what was done and what happened to 5,000 shares of Five Wheels Limited which were delivered to Mr. Manfred Kapp on September 4, 1964 as recorded in the records of A.C.H.

/lc

LVP:sp 1

IN THE SUPREME COURT OF ONTARIO

IN BANKRUPTCY

IN THE MATTER OF THE BANKRUPTCY OF ASSOCIATED
CANADIAN HOLDINGS LIMITED, of the City of
Toronto, County of York, Province of Ontario.

This is the examination for discovery of
J. TRAMIEL, a person thought to have knowledge of the
affairs of a Bankrupt, Associated Canadian Holdings
Limited, pursuant to Section 121 of the Bankruptcy Act,
taken before Peter W. McHugh, C.S.R., Special Examiner,
at his Chambers Suite 802 the Victory Building, 80
Richmond Street West, Toronto, Ontario, on the 30th day
of November, 1965.

APPEARANCES:

D. BAIRD, ESQ.,	for the Trustee,
J.B. POMERANT, ESQ.,	for the Witness.

JACK TRAMIEL, sworn.

BY MR. BAIRD:

1 Q. Mr. Tramiel, this is a continuation
2 of your examination which was conducted on
3 November 17 1965, In that examination you
4 undertook to advise me of the full details
5 concerning a payment by Associated Canadian
6 Holdings Limited to Commodore Business Machines
7 (Canada) Limited of the sum of \$750,000.00 on
8 July 10 1963. Would you please explain this
9 transaction?
10

11 MR. POMERANT: Mr. Baird, in light of
12 the fact I am not sure whether this is a
13 continuation of the old examination or a
14 subsequent examination, I should therefore
15 at this stage like to claim the protection of
16 the Canada Evidence Act for Mr. Tramiel, and
17 Mr. Tramiel pursuant to Section 5 of the
18 Canada Evidence Act, Section 9 of the Ontario
19 Evidence Act objects to answer this question
20 on the ground his answer may tend to incriminate
21 him or may tend to establish his liability to
22 a Civil Proceeding at the instance of the Crown
23 or any person, or to prosecution under any Act
24 of the Provincial Legislature. Mr. Tramiel
25 therefore claims the protection of Section 5
26 of the Canada Evidence Act and Section 9 of
27
28
29
30

1 the Ontario Evidence Act and any other relevant
2 Evidence Acts of any Province in Canada.

3 So as not to interfere with this
4 examination of Mr. Tramiel, since all the
5 questions in this examination would require
6 answers by Mr. Tramiel that may tend to incrim-
7 inate him or may tend to establish his liability
8 in a Civil Proceeding at the instance of the
9 Crown or of any person, or to a prosecution
10 under any Act of the Provincial Legislature,
11 may it be accepted and admitted that Mr. Tramiel
12 objects and is deemed to have objected to
13 answer every question at this examination on
14 the ground that his answers may tend to
15 incriminate him or tend to establish his
16 liability to a Civil Proceeding at the instance
17 of the Crown or of any person or to a prosecution
18 under any Act of the Legislature and that Mr.
19 Tramiel has and is deemed to have claimed the
20 protection of Section 5 of the Canada Evidence
21 Act, Section 9 of the Ontario Evidence Act and
22 any other relevant section of any other Provincial
23 Evidence Act for every answer given to every
24 question asked at this examination.

25 Do you so admit all the foregoing to
26 be and to have been done?

27 MR. BAIRD: Yes.
28
29
30

1 BY MR. BAIRD:

2 Q. Would you please answer my question,
3 Mr. Tramiel?

4 A. Yes, I did check into this and I got
5 from the books of Commodore the following
6 information. On July 10th 1963 C.B.M. received
7 7---

8 3 Q. You are making reference to Commodore
9 Business Machines?

10 A. Commodore Business Machines received
11 \$750,000.00 from Associated Canadian Holdings;
12 on July 10th 1963 Commodore Business Machines
13 issued a cheque, the cheque number is A-2174,
14 to Five Wheels Limited for 100,000 common shares
15 of Five Wheels Limited, on July 31 1963 the
16 Commodore Business Machines' Board of Directors---

17 4 Q. What was the amount of this cheque?

18 A. \$750,000.00.

19 5 Q. Who signed this cheque on behalf of
20 Commodore Business Machines?

21 A. This I cannot answer.

22 6 Q. Have you seen the cheque?

23 A. No.

24 7 Q. Who were signing officers for
25 Commodore Business Machines at that time?

26 A. I, Mr. Kapp and two other employees
27 of the company.

28 8 Q. The cheque was issued to Five Wheels
29 Limited?
30

1 A. Yes. This is information I have
2 received from the people in Commodore. On
3 July 31st 1963, repeating again, Commodore
4 Business Machines' Board of Directors did not
5 ratify the transaction, and upon mutual
6 agreement between Associated Canadian Holdings
7 and C.B.M., Commodore Business Machines,
8 100,000 shares of Five Wheels Limited were
9 transferred from Commodore Business Machines
10 to Associated Canadian Holdings as a full
11 settlement of the \$750,000.00.

12 9 Q. Did Associated Canadian Holdings
13 actually receive the 100,000 shares of Five
14 Wheels Limited?

15 A. I cannot answer that question.

16 10 Q. Who made the arrangements concerning
17 this settlement?

18 MR. POMERANT: On whose part, Mr.
19 Baird?

20
21 BY MR. BAIRD:

22 11 Q. On behalf of Associated Canadian
23 Holdings, on behalf of Five Wheels Limited and
24 on behalf of Associated Business Machines
25 (Canada) Limited?

26 A. Normally Five Wheels wouldn't be part
27 of it, they had nothing to do with it. I
28 believe that the Board of Directors' meeting
29
30

1 of Commodore Business Machines, Mr. Morgan who
2 was the Chairman of the particular meeting, has
3 mentioned to the Directors that if Associated
4 will take this back, and I believe that Mr.
5 Morgan has acted for both parties.

6 12 Q. Did you agree that Associated Canadian
7 Holdings Limited should do this?

8 A. Yes, I have agreed. On the same
9 basis I have agreed Commodore Business Machines
10 should buy it too.

11 13 Q. Did you agree Commodore Business
12 Machines should buy it from Five Wheels Limited?

13 A. Yes.

14 MR. POMERANT: I think you had better
15 explain that, Mr. Tramiel. When you say you
16 agreed, how did you agree and under what
17 circumstances did you agree, and were you asked
18 to agree?

19 THE DEPONENT: It would be going back
20 to the same question again as previously.

21 MR. POMERANT: I think it is very
22 important in light of the fact that on the
23 record there is an answer to a question, you
24 agreed to this transaction. Will you explain
25 what that means in terms of the companies you
26 were dealing with?

27 THE DEPONENT: Mr. Baird, I have
28 agreed for both companies because I was not
29 dealing in this particular business, Mr.
30

1 Morgan was dealing for the companies, and as
2 I had all the -- how can I say it -- all the
3 trust in Mr. Morgan I didn't see anyway how
4 I am in a position to counteract what he wants
5 to do.
6

7 BY MR. BAIRD:

8 14 Q. My recollection of your previous
9 examination was that you as a director of
10 Commodore Business Machines were not prepared
11 to purchase shares of Five Wheels Limited.
12 Is that correct? This is what I remember you
13 to have said.

14 A. The directors of Commodore Business
15 Machines, not I.

16 15 Q. You were always in favour of this
17 purchase?

18 A. I wasn't in favour and I wasn't against
19 because this was Mr. Morgan's deal.

20 16 Q. Which of the directors of Commodore
21 Business Machines (Canada) were in this
22 transaction?

23 A. The particular one which was outspoken
24 about it was Mr. Doug Annat, this was the
25 gentleman which was against it, against the
26 deal which was outspoken about it.

27 17 Q. Which other directors voted against
28 the transaction?

29 A. One vote would be enough, I think at
30

1 that time. We just decided we were going to vote
2 against it, as he pointed out certain things
3 were better for Commodore.

4 18 Q. So as a director of Commodore Business
5 Machines (Canada) Limited you voted against it,
6 the purchase of the shares?

7 A. I'm not sure if I voted for it or
8 if I abstained from voting, I am not sure what
9 I did, but definitely let's say I couldn't be
10 for it or against it because I knew very little
11 about Five Wheels.

12 19 Q. Can you tell me or will you undertake
13 to find out for me how you voted as recorded in
14 the minute books of Commodore Business Machines
15 (Canada) Limited?

16 MR. POMERANT: I don't think he can
17 undertake to do that, Mr. Baird.

18 MR. BAIRD: Why?

19 MR. POMERANT: Because the minute
20 books of Commodore Business Machines (Canada)
21 Limited are in possession of the Royal Commission.

22 MR. BAIRD: Does he have access to
23 those books?

24 MR. POMERANT: I don't frankly know
25 if he does have access.

26 MR. BAIRD: Will you consent if we
27 have access to them to obtain this information?
28 I am referring to the Trustee in Bankruptcy of
29 Associated Canadian Holdings Limited.
30

1 MR. POMERANT: No.

2 MR. BAIRD: You are refusing us access
3 to the minute books?

4 MR. POMERANT: I beg your pardon?

5 MR. BAIRD: Your position is you are
6 not prepared to consent?

7 MR. POMERANT: That is absolutely not
8 my position at all.

9 MR. BAIRD: I asked you whether you
10 would consent, would you authorize us if we
11 can obtain permission of the Royal Commission
12 to look at the minute books of Commodore Business
13 Machines (Canada)? That is my question and
14 your answer is no. Is that correct?

15 MR. POMERANT: Your question was
16 whether I will consent to your having access
17 to the minute books of Commodore Business
18 Machines with a view to obtaining this infor-
19 mation.

20 MR. BAIRD: Yes.

21 MR. POMERANT: Commodore Business
22 Machines minute books are in the hands of Mr.
23 Justice Hughes' Commission, I surely can't con-
24 sent to have anything done with the books that
25 are presently held by Mr. Justice Hughes, and I
26 suggest that if you wish the consent that you
27 speak with Mr. Justice Hughes and find out what
28 his position is with regard to anyone looking at
29 those books.

30 MR. BAIRD: I am saying I know we have

1 to get his permission, I am ---
2

3 ---Off the record discussion.
4

5 MR. BAIRD: For the purpose of the
6 record I have been advised that the policy of
7 the Royal Commission is that any company can
8 attend at their offices to look at their own
9 records and also to take photostatic copies of
10 any records.

11 MR. POMERANT: My position, Mr. Baird,
12 is that Mr. Tramiel will endeavour to give you
13 the information that you seek, on the other hand
14 all that I wish to say is I don't wish to speak
15 for Mr. Justice Hughes.

16 MR. BAIRD: I understand you cannot
17 speak, but I want you to undertake to endeavour
18 to obtain this information for us. You will
19 do this? Mr. Tramiel will do it?
20

21 THE DEPONENT: I will try to.

22 BY MR. BAIRD:

23 20 Q. Mr. Tramiel, the records of Associated
24 Canadian Holdings Limited indicate that on
25 September 4 1964 5,000 shares of Five Wheels
26 Limited were delivered to Mr. Manfred Kapp.
27 Can you explain why this was done and what
28 happened to these shares?
29

30 A. I believe you asked this question at

1 the previous hearing and I think I have answered
2 this question that I don't know.

3 21 Q. I understood in the interval you were
4 to inform yourself.

5 A. This is the letter I received from
6 you.

7 22 Q. I discussed this with your counsel
8 and provided your counsel with a copy of the
9 le letter. I am prepared to examine Mr. Kapp under
10 Section 121 of the Bankruptcy Act concerning
11 the affairs of Associated Canadian Holdings
12 Limited, I am prepared to ask him this question.
13 If you don't know, we will terminate the exam-
14 ination.

15 MR. POMERANT: Before we terminate
16 the examination, Mr. Baird, we may as well
17 put on the record that Mr. Tramiel has endeavoured
18 to the best of his ability to answer the questions
19 for which he thought he was brought forward at
20 this examination. I assure you Mr. Tramiel
21 will provide whatever information he has under-
22 taken to provide to the best of his ability.
23 My understanding was at this examination he was
24 to answer the question with regard to the
25 \$750,000.00 cheque, that is what I had spoken
26 to you over the telephone about.

27 MR. BAIRD: My recollection was when
28 we terminated our last examination I provide
29 you with a copy of a letter, a receipt signed
30

1 by Mr. Kapp dealing with the 5,000 shares,
2 however I think this matter can be very
3 satisfactorily settled by an examination of
4 Mr. Kapp.
5


6 ---Off the record discussion.

7 ---Examination concluded.
8
9
10
11
12

13 I hereby certify the foregoing to
14 be the examination of JACK TRAMIEL, under Section 121
15 of the Bankruptcy Act, taken before me on the 30th day
16 of November, 1965.

17 Certified correct:
18

19 
20 L.V. PARTAIN, Reporter
21


SPECIAL EXAMINER
22
23
24
25
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28
29
30

PETER W. MCHUGH
SPECIAL EXAMINER
Chartered Shorthand Reporter
TORONTO - 364-4068

ONTARIO

In The SUPREME Court of ONTARIO

IN BANKRUPTCY

IN THE MATTER OF THE BANKRUPTCY OF
ASSOCIATED CANADIAN HOLDINGS LIMITED,
of the City of Toronto, County of York,
Province of Ontario.

EXAMINATION OF

J. TRAMER

- ☒ FOR DISCOVERY
☐ ON AFFIDAVIT
☐ AS JUDGMENT DEBTOR
☐ DE BENE ESSE

TAKEN November 30th, 1969.

The Royal Commission on Atlantic Accept.

454 University Avenue.

ROYAL COMMISSION
ON
ATLANTIC ACCEPTANCE CORPORATION LIMITED
EXHIBIT No.

PER..... REGISTRAR..... DATE.....

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